IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

GUARDIANSHIP PETITION No. 33 of 2006.

Mrs.Bharti W/o Rakesh Suryavanshi.
.. ..PETITIONER.

Mr.A. Majeed Memon for petitioner.

CORAM:S.C.DHARMADHIKARI,J.

DATED: 19TH JULY, 2006.

P.C.:-

1] Heard Mr. Memon appearing for the petitioner.

2] The petitioner is the sister of the deceased father of the minors whose names and details are set out in paras 2 and 3 of this petition.

3] The father of the minors has expired on 6th May, 2002. The mother of the minors has executed a declaration alngwith the petitioner. In the joint declaration which is annexed as Exh-C in paras 2 and 4, this is what is stated;

"2. I,Deponent No.1,say that my husband died an unnatural death in an accident in Pune on 6th May, 2002. The sudden death of my husband Deepak has caused me and my children unbearable trauma and we are not put to great hardship for even our day-to-day needs for subsistence. I am left with no funds to look after my two young children and bear the expenses of their clothing, education, etc. From my side, I do not have any dependable relatives to come forward to support me."

"4. I deponent No.1 say that out of natural love and affection towards her brother's children and acknowledging her responsibility as a paternal aunt herself she has come forward to take care of both the

children. This offer by Deponent No.2, is keeping in mind the paramount consideration of the welfare of the said children. I, Deponent no.1, say that I have full faith and confidence in deponent No.2., I, Deponent No.1, am further confident that my minor children would be looked after by Deponent No.2, much better than that I would be able to do. Deponent No.2, has assured me that my children; would be provided the best food, clothing, upkeep and education by herself in the United States of America in case she goes to U.S.A.,with them in future. My said children would be brought up as responsible citizens in the care and custody of Deponent No.2 herein, who is well-settled in the United States of America and is supported by her husband

Rakesh Suryavanshi."

4] Mr. Memon states that he is not pressing for prayer clause (b) of this petition, at this stage.

5] The petitioner is not desirous of removing the children out of India and has undertaken to make arrangement for their residence and education in India appropriately. She has also undertaken to take complete care of the minors. In the light of the unfortunate circumstances in which the mother of the children is handing over the minors to their paternal aunt and upon being satisfied of her bonafides, the petitioner is appointed as the Guardian of the Minors whose names are set out in para 2 of the petition.

6] This relief is granted because of the Declaration and Undertaking contained in paras 10 and 12 of this petition.

7] Mr. Memon in addition to this undertaking,agrees to file an affidavit of the mother of the minors Mrs. Sarika Deepak Kumbhar confirming the Execution of the Declaration (Exh.C), handing over custody of minors to the petitioner. Mr. Menon states that the Declaration is executed by her willingly and signature below the same is that of mother of minors. However, with a view to satisfy myself, I direct that an affidavit be filed to the above effect within a period of two weeks from today.

8] Subject to the above affidavit being filed, petition is made absolute in terms of prayer clause (a).

[S.C. DHARMADHIKARI,J]